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(2) Use of a method of fluidized bed combustion is not technically or economically feasible due to design or special circumstances.

[46 FR 59903, Dec. 7, 1981, as amended at 54 FR 52894, Dec. 22, 1989]

§ 503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

(a) *Criteria.* To qualify for permanent exemption due to lack of alternate fuel supply, site limitations, environmental requirements, or inadequate capital, section 212(a) of the Act requires a demonstration that one of these exemptions would be available for any reasonable alternative site for the facility.

(b) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications to the criteria set forth in paragraph (a) of this section; and

(2) Exhibits containing the basis for the certifications submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certifications to this general requirement).

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§ 503.12 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* A petitioner must comply with any terms and conditions imposed upon the grant of an exemption petition. OFE will limit any such terms and conditions to the unit(s) which is the subject of the petition.

(b) *Compliance plans for temporary exemptions.* (1) Any compliance plan required to accompany a petition for a temporary exemption shall include the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place, indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Evidence of binding contracts for fuel, or for facilities for the production of fuel, which are required for compli-

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ance with the applicable prohibitions of the Act;

(iii) A schedule indicating how any necessary permits and approvals required to burn an alternate fuel will be obtained; and

(iv) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions of the Act.

(2) Any exemption for which a compliance plan is required shall not be effective until the compliance plan is approved by DOE.

(3) If the petition is granted, an updated, duly executed plan must be submitted to OFE within one (1) month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan.

§ 503.13 Environmental impact analysis.

In order to enable OFE to comply with NEPA, a petitioner must include the information indicated in this section if a permanent exemption is requested. Material which has been prepared pursuant to any Federal, State or local requirement for environmental information for this unit or site may be incorporated by reference and appended to the petition. Guidelines issued by OFE for environmental reports should be used in preparing this analysis (44 FR 63740, November 5, 1979). These guidelines, which are also available in the OFE public document room, have been designed to insure that environmental reports follow the format prescribed by Council on Environmental Quality final regulations implementing NEPA. The guidelines are subject to discussion at a prepetition conference and to modification according to the facts of a particular case.

(a) All petitions for permanent exemptions must contain the following information:

(1) A description of the facility, including site location, and surroundings, alternative site(s), the facility's current proposed operations, its

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fuel capability, and its pollution abatement systems and equipment (including those systems and equipment necessary for all fuel scenarios considered);

(2) A description of the existing environment, including air, water, and land resources;

(3) Direct and indirect environmental impacts of the proposed action including impacts of alternative fuel scenarios, and no build alternatives.

(4) Regulatory requirements governing the facility, including a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for each fuel considered.

(b) For exemptions for cogeneration, the information enumerated below is to be submitted in lieu of the information required by paragraph (a) of this section. However, submission of the following information merely establishes a rebuttable presumption that the grant or denial of the exemption would have no significant environmental impact. OFE may, in individual cases, during the course of the administrative proceeding, determine that additional environmental information is required. In such cases, the petitioner will be required to submit the information described in paragraph (a) of this section.

(1) A certification that the petitioner will, prior to operating the unit under the exemption, secure all applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Rivers and Harbors Act, Coastal Zone Management Act, Safe Drinking Water Act, Resource Conservation and Recovery Act; and

(2) Information required by the following environmental checklist must be provided and certified as accurate:

Environmental Checklist for FUA Certification Exemptions Instructions

All questions are to be answered by placing a check in the appropriate box. N/A represents (not applicable). Although it is not required, the petitioner may elaborate on any question in writing on a separate sheet of paper.

	Yes	No	N/A
(1) Is your facility located in, or will it affect a wetland (Protection of Wetlands Executive Order No. 11990)?			
(2) Is your facility located in, or will it affect, a 100-year floodplain (Floodplain Management Executive Order No. 11988)?			
(3) Will your facility affect a designated wild, scenic, or recreation river (Wild and Scenic Rivers Act)?			
(4)(A) Is your facility located within a county in which critical habitat for threatened or endangered species are known to exist (Endangered Species Act)?			
(4)(B) Has a qualified biologist determined that your facility will not affect any species on the Threatened and Endangered Species list?			
(5) Is your facility located on, or will it affect land that has been classified as prime or unique farmland or rangeland by the U.S. Department of Agriculture?			
(6) Is your facility located on, or will it affect, historical archaeological, or cultural resources that have been designated pursuant to the National Historic Preservation Act?			

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§ 503.14 Fuels search.

Prior to submitting a petition for a permanent exemption for lack of alternate fuel supply, site limitations, inadequate capital, or state or local requirements, a petitioner must examine the use of conventional solid coal as a primary energy source at the site under consideration, and at reasonable alternative sites. Where a petitioner believes that its use of such coal would be infeasible, however, and where OFE and the petitioner can reach accord, it may evaluate use of a different alternate fuel in lieu of solid coal. A petitioner of these exemptions must demonstrate for any fuel examined that he would qualify for an exemption.

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